

## Message Text

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ORIGIN HA-05

INFO OCT-01 EUR-12 NEA-11 ISO-00 IO-13 SS-15 L-03  
PA-01 CA-01 VO-05 NSCE-00 CIAE-00 INR-10 NSAE-00  
DODE-00 FBIE-00 SY-05 INSE-00 SSO-00 INRE-00 /082 R

DRAFTED BY HA/ORM:LARTHUR:CML  
APPROVED BY HA/ORM - JLCARLIN  
HA/ORM - SCLOWMAN  
NEA/PAB - JACOON(SUBS)  
-----088591 130052Z /64

O P 122202Z MAY 78  
FM SECSTATE WASHDC  
TO AMEMBASSY KABUL IMMEDIATE  
INFO AMEMBASSY ISLAMABAD PRIORITY  
AMEMBASSY TEHRAN  
AMEMBASSY PARIS  
AMEMBASSY ROME

C O N F I D E N T I A L STATE 122100

E.O. 11652: GDS

TAGS: SREF, AF, PINS, SHUM

SUBJECT: POTENTIAL AFGHAN ASYLUM SEEKERS

REF: (A) KABUL 3827 (NOTAL); (B) STATE 119851; (C) STATE  
110065 (NOTAL)

1. AS A SIGNATORY TO THE UNITED NATIONS PROTOCOL RELATING  
TO THE STATUS OF REFUGEES, WHICH INCORPORATES THE SUB-  
STANTIVE PROVISIONS OF THE U.N. CONVENTION RELATING TO  
THE STATUS OF REFUGEES, WE ARE GUIDED BY THE CONVENTION'S  
DEFINITION OF REFUGEES AS "PERSONS WHO ARE OUTSIDE OF AND  
UNWILLING TO RETURN TO THE RESPECTIVE COUNTRIES OF  
NATIONALITY OR HABITUAL RESIDENCE DUE TO WELL-FOUNDED FEAR  
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OF BEING PERSECUTED..." PERSONS WITHIN THEIR COUNTRY OF  
NATIONALITY WOULD THEN NOT BE CONSIDERED TO BE REFUGEES  
AND ANY ASSISTANCE WE WOULD GENERALLY BE ABLE TO PROVIDE  
WOULD BE LIMITED TO TEMPORARY REFUGEE SITUATIONS AS  
DESCRIBED REFTEL C. IT IS OUR POLICY NOT TO GRANT DIPLO-  
MATIC ASYLUM AND WE CANNOT GIVE ASYLUM TO ANYONE NOT WITH-  
IN U.S. TERRITORIAL JURISDICTION.

2. PROCEDURES REGARDING CONDITIONAL ENTRY PROCESSING REFERRED TO IN REFTEL B (75 STATE A-5895) WOULD BE APPLICABLE TO ALL AFGHANS RATHER THAN JUST OFFICIALS OR FORMER OFFICIALS OF THAT GOVERNMENT. ANY AFGHAN IS PRIMA FACIE ELIGIBLE TO MAKE APPLICATION AT A DESIGNATED POST WHERE CONDITIONAL ENTRY APPLICATIONS ARE PROCESSED.

3. REGARDING CASES INVOLVING REFUGEES LOCATED IN A THIRD COUNTRY, IT IS OUR VIEW THAT ASYLUM IS THE RIGHT AND RESPONSIBILITY OF THE COUNTRY WHERE THE REQUEST IS MADE. IN GENERAL, OUR RESPONSE TO ASYLUM REQUESTS FROM REFUGEES IN THIRD COUNTRIES WOULD BE TO REFER THE PERSON TO APPROPRIATE HOST GOVERNMENT AUTHORITIES WHENEVER POSSIBLE. FYI - THERE IS LITTLE IF ANYTHING THAT CAN BE DONE FOR EXAMPLE IN A CASE OF A REFUGEE FROM A COMMUNIST COUNTRY WHO HAS APPROACHED A U.S. EMBASSY FOR ASSISTANCE IN ANOTHER COMMUNIST COUNTRY. END FYI. IF THIS IS NOT FEASIBLE, THE ASYLUM SEEKER WOULD BE ADVISED TO SEEK ASSISTANCE FROM THE UN HIGH COMMISSIONER FOR REFUGEES (UNHCR). THE UNHCR CAN BE EXTREMELY HELPFUL IN RESETTLING REFUGEES IN THIRD COUNTRIES BOTH AS A RESULT OF DIRECT APPEALS BY THE REFUGEE, OR BY THE COUNTRY IN WHICH THE REFUGEE IS LOCATED. POSSIBLE APPLICATION FOR SEVENTH PREFERENCE CONDITIONAL ENTRY (SECTION 203(A)(7) OF THE INA) COULD THEN BE EXPLORED. SINCE AFGHANISTAN IS CONFIDENTIAL

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WITHIN THE "GENERAL AREA OF THE MIDDLE EAST" PURSUANT TO THIS SECTION OF THE INA, AFGHANS ARE PRIMA FACIE ELIGIBLE TO APPLY FOR CONDITIONAL ENTRY (C.E.) INTO THE U.S.

4. HOWEVER, POTENTIAL C.E. APPLICANTS WOULD HAVE TO PROCEED TO A POST WHERE INS PROCESSES C.E. APPLICATIONS. THESE POSTS ARE ATHENS, ROME, VIENNA, FRANKFURT, PARIS, BRUSSELS, AND HONG KONG. THIS ONWARD REFERRAL DOES NOT IMPLY A GUARANTEE TO THE POTENTIAL C.E. APPLICANT THAT HIS APPLICATION WOULD BE APPROVED. IF INS DETERMINES THAT A WELL-FOUNDED FEAR OF BEING PERSECUTED EXISTS, THE APPLICANT WOULD ALSO HAVE TO MEET THE OTHER CRITERIA OF THE INA FOR ADMISSION INTO THE U.S. ESPECIALLY 212(A)(27) (28) AND (29).

5. A TRAVEL DOCUMENT AND AN ENTRY VISA TO ENTER A COUNTRY WHERE C.E. APPLICATIONS ARE PROCESSED MAY ALSO BE REQUIRED. THE UNHCR MAY ALSO BE ABLE TO PROVIDE ASSISTANCE IN SECURING TRAVEL DOCUMENTS OR VISAS AND WOULD CONTINUE TO SEEK EVENTUAL RESETTLEMENT OF AN UNSUCCESSFUL C.E. APPLICANT.

6. EMBASSY, IN ITS DISCRETION, MAY INFORM AFGHANS SEEKING ASSISTANCE OF POSSIBILITY OF APPLYING FOR CONDITIONAL ENTRY SHOULD THEY BE SUCCESSFUL IN LEAVING AFGHANISTAN ON THEIR OWN. AMONGST THE GROUP DESCRIBED REFTEL A, MOST WOULD LIKELY QUALIFY. HOWEVER, SINCE INS OFFICIALS RATHER THAN DEPARTMENT MAKES DECISIONS REGARDING C.E. APPLICATIONS, EMBASSY SHOULD BE EXTREMELY CAUTIOUS WHEN REPLYING TO QUESTIONS REGARDING POSSIBILITY OF APPROVAL OF SUCH AN APPLICATION. WE WOULD SUGGEST THAT IF SUCH SITUATION ARISES, THE POTENTIAL C.E. APPLICANT BE ADVISED THAT IT IMPOSSIBLE TO MAKE A PRE-DETERMINATION OF ANY C.E. APPLICATION. VANCE

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## Message Attributes

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**Current Classification:** UNCLASSIFIED  
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**Copy:** SINGLE  
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**Disposition Action:** RELEASED  
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**Disposition Case Number:** n/a  
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**TAGS:** SREF, PINS, SHUM, AF  
**To:** KABUL  
**Type:** TE  
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